

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1331 OF 2007

Akash Vishnu Shinde

...Applicant

V/s.

State of Maharashtra

...Respondent

Shri.K.S. Patil & V.S. Kapase for Applicant.

Shri.K.V. Saste, PP for the State/Respondent.

CORAM : V.M. KANADE, J.

DATED : 26th JUNE, 2007.

P.C:-

1. Heard learned counsel for the Applicant and learned PP for the State.
2. This is a second application for bail filed by the Applicant who was arrested by the MIDC Police for the offences punishable U/s.498(A), 302 r/w 34 of IPC.
3. It is case of the prosecution that the Applicant took the deceased to the bathroom and set her ablaze by putting kerosene on her. This Court by order dated 15th February, 2006 had rejected his

application for bail on merits. Liberty, however, was granted to the Applicant to apply for bail again in the event trial is not completed within a reasonable period of time.

4. Learned counsel for the Applicant submits that only four witnesses have been examined by the prosecution during the course of one year and another ten witnesses are yet to be examined. He submits that on the basis of evidence which is recorded by the prosecution and from the admissions which are given in the cross examination, it clearly shows that no case is made out against the present Applicant. He submits that there are discrepancies in the statement of PW-1 Snehlata Warke and PW-4 Ananda Thorat. He submits that this Court while rejecting the bail application, had relied on two dying declarations. He submits that in the cross examination PW-1 Snehlata Warke has stated that dying declaration was recorded not at the instance of the deceased Deepali but she had prompted her to make the said statement and further PW-4 Ananda Thorat has stated in the cross examination that he had questioned Deepali regarding the incident and had asked her whether accused had poured kerosene on her and she had replied in negative. He submits

that the said evidence which is brought on record clearly belies case of the prosecution and two dying declarations therefore, can not be relied upon. Under these circumstances, he submits that the Applicant be released on bail.

5. In my view, it is not possible to consider the application of the Applicant on merits at this stage, particularly when the trial has already began and four witnesses have been examined. Shri.Saste, learned PP appearing on behalf of the State, on instructions from the Investigating Officer states that prosecution is going to examine another ten witnesses. The trial will be over within three months. In view of the said submission, at this stage it is not possible to accept the submissions made by the learned counsel for the Applicant. Hence, the application for bail is rejected.

6. It is clarified that the Trial Court shall not be influenced by any observations made by this Court while rejecting the bail application which is filed by the Applicant herein and the Trial Court shall decide the case on merits and in accordance with law. The Trial Court is directed to decide the case as expeditiously as possible and

in any case within a period of two months. With these directions, the application for bail is disposed of.

V.M. KANADE, J.